

## **REMARKS**

The Examiner has contended that the response filed on September 24, 2004 was not responsive because the claims were not presented as double spaced. Applicants submit herewith a new copy of the amended claims in which the spacing is one and a half spacing. Applicants are providing a copy of the remarks filed on September 24, 2004 below. Consideration of this amendment is respectfully requested.

Claims 13, 15-26, 29-35 and 37-41 are currently pending in this application. Claims 13, 15-22, 37 and 39 have been amended, and claims 1-6 and 9-12 have been canceled. No new matter has been added to this application.

### **Drawings**

Applicants acknowledge the Examiner's indication that the proposed drawing changes to figures 1, 23 and 27 are approved. Applicants are submitting herewith a complete set of formal drawings as requested by the Examiner.

### **Indication of Allowable Subject Matter**

Applicants acknowledge the Examiner's indication that claims 13, 15-22, 37 and 39 contain allowable subject matter and would be allowable if rewritten in independent form to include the limitations of any base claim and intervening claims. Applicants also acknowledge the Examiner's indication that claims 23-26, 29-35, 38, 40 and 41 are allowed.

**Rejection of Claims 13, 15-22, 37 and 39 under 35 U.S.C. § 112**

The Examiner has rejected claims 13, 15-22, 37 and 39 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner contends that claim 13 is indefinite because "the at least one axis marker" lacks antecedent basis. Applicants have amended claim 13 to correct the antecedent basis and have also amended claims 15 and 19-22 to refer to "the at least one identified graphical axis marker" to remove any further confusion. Applicants have also amended claims 17 and 18 to refer to a physical marker rather than a graphical marker. Applicants have amended claim 37 to be in independent form and not include the conflicting limitation regarding overlaying the distance information. Applicants have amended claim 39 to indicate that the ring is dimensioned with the actual instrument to achieve the pre-defined configuration. Applicants respectfully submit that claims 13, 15-22, 37 and 39, as amended, correct any prior indefiniteness and request that the rejection of the claims under 35 U.S.C. § 112, second paragraph be withdrawn.

**Rejection of Claims 1-6 and 9-12 under 35 U.S.C. § 102 (e)**

The Examiner has rejected claims 1-6 and 9-12 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent No. 6, 753,879 (Deleeuw). Applicants have canceled claims 1-6 and 9-12 hereby making the rejection moot. Applicants respectfully request that the rejection of claims 1-6 and 9-12 under 35 U.S.C. § 102 (e) be withdrawn.

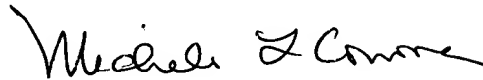
**Conclusion**

Applicants respectfully submit that claims 13, 15-26, 29-35 and 37-41, as amended, are in condition for allowance and request that a timely Notice of

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Amdt. dated January 28, 2005  
Reply to Office Action of January 18, 2005

Allowance be issued in this case. The Examiner is invited to contact the undersigned should he have any questions in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michele L. Conover". The signature is fluid and cursive, with the first name "Michele" being more prominent than the last name "Conover".

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